

CHILD CARE LICENSING ADVISORY COMMITTEE MEETING MINUTES

May 8, 2008

Cannon Health Building, 288 North 1460 West, Room 114
Salt Lake City, Utah

Members Present: Dale Smith; Diane Wilkinson; David Rothschild; George Garff; Michael Libeck; and Christiana Peterson.

Members Excused: Carol Thompson; Wendy Hobson-Rohrer; Susan Cochella; Carol Holcombe; Susan Williams-Ashby; and Vicki Bird.

Staff Present: Teresa Whiting; Dr. Babitz; Sherri Lizotte; Karrie Phillips; Donna Thomas; Sheila Oelerich. Lynda Worthington; Sue Kirkham; Jessica Strout; Joyce Hasting; and Joan Isom.

1. Minutes:

Minutes will be reviewed and approved at the next Child Care Licensing Advisory Committee meeting because we lacked enough members to have a quorum.

2. Update to Center Rule Interpretation Manual:

Ms. Whiting asked for any comments on the revisions to the Center Rule Interpretation Manual given out at the last meeting. There were no comments.

3. Update on Family and RC Rules:

Ms. Whiting explained that during the April public comment period the Bureau received comments from 25 individuals. She explained that the Bureau has made proposed changes to the rules, based on those comments. The proposed changes were discussed.

R430-90-2(22) Ms. Wilkinson questioned whether the quilts that her children sleep were acceptable sleeping equipment or did she need to purchase mats. Ms. Whiting stated that if she provides mats they would need to be kept in good repair, but the proposed rule does not say that providers must purchase any specific kind of sleeping equipment.

R430-90-6 Ms. Whiting reviewed a proposed change that would require a fenced outdoor play area for Licensed Family providers only if certain safety hazards exist, instead of the current rule which requires a fence in all cases. Mr. Rothschild stated that a fence should be a necessity and that a child could be killed by a vehicle traveling at a slow speed. Mr. Garff stated that a fence is a necessity because it not only is a containment of the children but it is a barrier for someone invading the property. Susan Ison questioned whether there is a supervision rule for children playing in the front room. Ms. Whiting stated that supervision must be maintained regardless of where the children play. Mr. Libeck stated that the out door play area should be fenced and as a parent he would not put his child where the out door play are is not fenced. Mr. Rothschild stated that the cost of a fence is not as expensive as a child's life.

Dr. Babitz stated that we may not be hearing the concerns of many rural providers, and that in some of the rural areas a car doesn't even travel down a providers road all day. Ms. Wilkinson questioned whether the rule could be more defined so that the rural areas wouldn't need a fence. Ms. Ison stated that many providers take their children to the park and they are not fenced. Mr. Smith stated that many parks situate the playground area in the middle of the park so that there is a huge buffer area for the children. Ms. Peterson stated that she lives in a rural area where there is not a lot of traffic, but she has seen teenage drivers drive down her road going 60 miles an hour.

R430-90-6(9)(c) Mr. Rothschild recommended that diaper children not be allowed to use a wading pool. Ms. Wilkinson stated that she does water play every Friday, but she turns on the sprinkler and the children never use a wading pool. Ms. Peterson agreed with Ms. Wilkinson that children do not need to use a wading pool to have water play. Dr. Babitz stated that a wading pool used properly is not a health and safety issue and so from a rule making position that it is beyond our scope to completely prohibit providers from having a wading pool. Mr. Libecky suggested that the provider must have parental permission for the children to use the pool. Ms. Wilkinson stated that if one child is not allowed to use the pool and all of the children are, it might be hard for the child who is left out.

R430-90-6-(14)(a) and R430-90-6-(14)(b) Mr. Smith questioned how often outdoor cushioning should be checked to see if it is compacted. Ms. Whiting stated that the licensors inspect twice a year. Ms. Whiting questioned whether the rule should have a time period for checking the out door cushioning. Mr. Rothschild stated that the different cushioning materials compact at a different rate. Dr. Babitz stated that if a provider ignores a health and safety standard by the state is a significant liability risk. It was determined that a time period not be added to this rule.

R430-90-11(6) Encarni verified that a family licensed provider that only has six children may have three infants. Susan Ison questioned whether a provider may have 4 infants if they hire a second care giver. Ms. Whiting verified that a family licensed provider may have 4 infants as long as they have two caregivers. Dr. Babitz stated that the Bureau will no longer have a family group provider type, only Licensed family provider. The Bureau will determine the capacity of the provider by square footage and the city's allowance and then based on the square footage the licensed capacity will be posted on the provider's license. Karen Silver, SLCAP questioned whether removing the family group provider type would have an effect on the DWS payment schedule for child care providers. Ms. Whiting stated that they had removed that delineation a few years ago.

R430-90-16(19) Mr. Garff questioned who is watching the sick child if he is separated from the other children. Ms. Whiting stated that there are times in licensed family child care when the provider is not with the child such as when a child goes to the bathroom, when the provider goes to the bathroom, when the provider is making lunch, etc. Mr. Smith questioned if the parents of the well children are notified when a child becomes sick, or that this facility takes sick children? Mr. Libecky stated that as a parent, he would like to be notified if a child is sick at the his child's care facility. Smith stated that

children who are not sick will generally wander in to see the child who is sick and questioned whether a child who is throwing up should be allowed to stay at the child care facility? Mr. Rothschild questioned what child care providers do when their own children are sick. Dr. Babitz stated that providers should have a policy concerning sick children, including when they accept sick children and what their policy is. Ms. Phillips stated that providers should have a policy concerning the exclusion of sick children. Bethany Hoskins, Learning Tree Child Care Facility suggested that the provider define exclusion, where the sick child will be excluded in the facility.

Ms. Whiting then reviewed the changes in the RC rule (R430-50) that were not covered during the Licensed Family rules. She reminded the committee that the Legislature created the RC as a lesser standard of child care.

Ms. Whiting explained that RC providers will have a square footage requirement for all new child care providers after the rules go into effect. The current RC providers will be grandfathered in so that they do not have to disenroll children to be in compliance with this rule.

Mr. Garff questioned the lesser standard of child care because of the safety of children being critical for all children, regardless of the child care facility type. Dr. Babtiz stated that the Legislature chose to create the lesser standard, therefore we must allow for this in our rules.

After some discussion it was recommended that RC providers will be allowed to use a shared hand towel for children's handwashing.

Mr. Smith opened the meeting up for public comments on the proposed rules. Ms. Silver, SLCAP recommended that more information should be included in the rule regarding the disposal of soiled clothing and options of what providers should do with the soiled clothing.

The Bureau will make some further modifications to the rules based on the discussion. The rules will then be filed again and have another 30-day comment period.

4. Proposed License Exempt Rule:

Ms. Whiting explained that the Bureau asked the Legislature to clarify our statute regarding exemptions. The Legislature did clarify the statute regarding public schools, but did not clarify the statute regarding private schools. She distributed for discussion a draft of a proposed rule to make additional clarifications regarding exemptions.

Bruce King, Montessori, questioned why the rule only addresses first through twelfth grade. Ms. Whiting stated that Kindergarten is not compulsory. Ms. Whiting explained that if a provider takes child care subsidy then according to subsidy regulations they are not a private school. Mr. King stated that public schools provide kindergarten and they are exempt.

Ms. Silver questioned if the preparation of food included snacks. Ms. Whiting stated that the rule means the actual preparation such as cooking, refrigeration, etc.

Mr. Anderson, UPCCA, questioned the time factor for “Care Not in Lieu of Parental Care.” Ms. Whiting explained that a provider must comply with all of the requirements listed to be exempt, just not the time factor.

Mr. Rothschild stated that there are many providers that are owned or operated by a federal government that are licensed. Ms. Whiting stated that these providers are already exempt by the statute, but may be licensed voluntarily if they choose to.

Mr. Garff questioned whether “care for less than four hours a day” referred to a child in care or the operation of a child care facility. Ms. Whiting stated that she will clarify this in the rule. Ms. Ison questioned whether providers who provide care for less than five children can be licensed. Ms. Whiting stated that these providers may voluntarily be licensed if they choose to, but they are not required to. Ms. Ison requested that the rules state that a license is not available for providers who care for less than five children, so that those providers can be on the federal food program without having to get a license. Mr. Rothschild stated that if a provider wants to volunteer to adhere to a higher standard they should be able to get a license. Mr. Smith requested that the food program address the implications of a license not available to providers if they care for less than five children at the next CCLAC.

Mr. Smith questioned the meaning of the phrase, “is part of program that is administered by a private education institution.” Ms. Whiting stated that this would mean any program that is administered by the private education institution. Mr. Smith stated that would mean that any program administered by the private education institution would be exempt from licensure. Mr. Smith clarified that any provider that decided to provide a first grade curriculum would then be exempt from licensure. Ms. Whiting stated that would be true unless the provider also received subsidy from the Office of Child Care or was on the food program. Mr. Bruce King questioned whether the Bureau investigates complaints on these facilities. Ms. Whiting stated that the Bureau does not have the authority to investigate complaints on these types of facilities.

5. Background Screening Rule:

Mr. Johnny Anderson stated the he had met with Representative Holdaway, Dr. Babitz and Teresa concerning those individuals who had misdemeanor A convictions which did not involve child abuse or sexually related crimes be allowed to do child care. When they had met he had intended that this should include new employees as well as those previously hired employees. Mr. Anderson explained that the licensed child care industry has not increased since 1999 but the exempt providers have increase exponentially and their employees do not have to have a background screening. He also suggested that an employee that had a misdemeanor A could be supervised while applying for an expungement if their crime was not a crime against a child or was a violent crime. Mr. Smith questioned whether the Bureau could have a board of appeal and the employee

could bring their case to this board of appeal who would determine if this employee could be employed in child care. All of these issues will be brought back to the committee to discuss at the next meeting. Mr. Anderson suggested that the employee should also be allowed to appeal their denial to a group of individuals. He stated that the Bureau isn't stopping those individuals with a record from working in unlicensed facilities, just the licensed facilities. The CCLAC made a recommendation that the committee investigate this issue to determine if there is a more systematic way of defining the severity of a new employees record and if the employee could work while being supervised while they are getting their record expunged.

The meeting was adjourned.

Dale Smith, Chairperson

Teresa Whiting, Executive Secretary